



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

February 13, 1995

Eurika Stubbs, Clerk of the Board
Environmental Appeals Board (MC-1103B)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

RE: In the Matter of: Tamposi Family Investments
Russell Avenue Site
CERCLA Petition No. 94-3

Dear Ms. Stubbs:

Enclosed for filing in this case is the original affidavit of
Daniell R. Spear. My filing on February 10, 1995, included a fax
of this affidavit.

Thank you very much.

Very truly yours,

Joanna Jerison
Assistant Regional Counsel

cc: Samuel Tamposi, Jr.

95 FEB 16 P2:36

ENVIRONMENTAL APPEALS



BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

ENVIRONMENTAL APPEALS
F.P.A.

95 F.T.P. 16 P.2:36

In the matter of:

Tamposi Family Investments
Russell Avenue Site

CERCLA Petition No. 94-3

AFFIDAVIT OF DANIELL R. SPEAR

I, Daniell R. Spear, do state upon my personal knowledge:

1. I am employed by the New Hampshire Department of Environmental Services as a Waste Management Engineer. I have worked at that position since 1988.

2. I make this affidavit based on my memory, and also based on my review, within the past month, of documents in the site file for the Russell Avenue Site kept at the New Hampshire Department of Environmental Services.

3. I inspected the Russell Avenue Site on October 19, 1990. During that inspection, I observed that the cap constructed over the asbestos, as part of the removal remedy, was seriously eroded because of surface-water runoff down the slope. I also observed exposed asbestos wastes at other locations on the property.

4. In the fall of 1990, as a result of that inspection, the Tamposis replaced cover material on the failing asbestos cap, covered the fill with jute matting, and then placed sod on top of the jute mat. While this work temporarily treated the effect of the erosion, it did not address the cause of the erosion. There was still no provision made for controlling surface water runoff from Russell Avenue down the cap slope. Based on records in the

site file, it appears that consultants had advised the Tamposis to install a permanent drainage swale at the end of Russell Avenue to prevent future erosion. No drainage swale was installed.

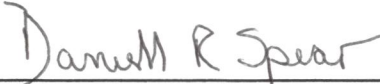
5. On August 20, 1991, I performed a follow-up inspection. During that inspection I observed that cap deterioration was occurring again. There was still nothing in place to control surface water runoff.

6. As a result of that 1991 inspection, the Tamposis again undertook to repair the cap. I reinspected the site on September 24, 1991. At that time, the cap was being repaired and a catch basin was being installed. I expressed concern that the drain pipe from the catch basin was too short and would cause the cap to erode.

7. I returned to the site on October 7, 1991, and observed that the cap had been repaired and the catch basin was installed. In a follow-up letter, I again questioned whether the catch basin was sufficient to protect the cap from future runoff.

8. On January 27, 1995, I inspected the site again. During that inspection I observed that the catch basin had completely filled in with silt and the cap was again eroding. In my opinion, the problem of cap erosion will worsen until a permanent solution to the problem of runoff, such as a permanent drainage swale, is constructed.

Signed under the pains and penalties of perjury this 7th
day of February, 1995.



Daniell R. Spear